UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

January 24, 2011

Ms. Michelle Eraut
Federal Highway Administration
Oregon Division Office
530 Center Street N.E., Suite 100
Salem, Oregon 97301

Mr. Thomas Picco
Oregon Department of Transportation, Region 1
123 NW Flanders Street
Portland, Oregon 97209-4012

Re: Sunrise Project, I-205 to Rock Creek Junction
EPA Region 10 Project Number 93-038-FHW

Dear Ms. Eraut and Mr. Picco:

The U.S. Environmental Protection Agency has reviewed the Sunrise Project, I-205 to Rock Creek Junction Final Environmental Impact Statement (FEIS). We are submitting comments in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Thank you for the opportunity to offer comment.

The FEIS identifies a Preferred Alternative that is a modification of Alternative 2 from the Supplemental Draft EIS. This Preferred Alternative is to construct a new limited access highway with six through-lanes plus two auxiliary lanes with a midpoint interchange coupled with Design Options C-2, D-3, and a portion of Design Option A-2 (Tolbert overcrossing that links Lawnfield area and SE 82nd Drive businesses). The Preferred Alternative also includes an array of local access roads, additional transition lanes, and other refinements to increase capacity, enhance mobility, and where feasible, reduce impacts.

We appreciate the efforts made to respond to our comments and recommendations on the Supplemental Draft EIS. While the existing wildlife corridor in the project area would be narrowed by the proposed project, we are grateful that it would be conserved as much as possible and that a number of crossing structures and needed fencing would be provided. We are also pleased that the bicycle/pedestrian path would be extended approximately two miles east to Rock Creek Junction. Wetland impacts, while still substantial, have been reduced to 22.9 acres. The extent to which these losses can be adequately mitigated via the Foster Creek Mitigation Bank is not yet known, but a contingency plan is being developed.

In general, we remain concerned about the size of the project. Several changes made since the Supplemental Draft EIS would expand rather than contract the roadway footprint

resulting in additional impacts, including losses of upland and riparian habitats. We are concerned about the magnitude of the project's potential effects to local ecosystems and communities and that the proposed mitigation would not sufficiently address these impacts. We offer the following specific comments and recommendations below.

Aquatic Resources

Stormwater management. While there are plans to treat and manage stormwater from project and non-project areas, we are concerned that, as stated in the FEIS (p. 183-188), the Preferred Alternative would create a net increase of 113.3 acres of new impervious surface that would potentially affect seven major drainages, all included on ODEQ's 303(d) list of waters not meeting standards, with increased runoff and pollutant loadings. The FEIS does not quantify the residual (post-treatment) pollutant loadings nor calculate/estimate effects on water quality, including for storm events that exceed the capacity of the treatment and detention systems. Projections should also consider how the number and severity of such events may increase with changing climate.

The most significant impacts from runoff would be to Cow Creek Basin, particularly the more intact reaches downstream of the project. This is because the percent of impervious area would increase from 10% to 26% in the Cow Creek basin, thereby crossing the general threshold for significant basin degradation (p. 185).

Recommendations: We encourage more and continued efforts to reduce project impacts from runoff and pollution and to retain or restore ecological functions within the project area. Efforts could include:

- incorporating a diversity of additional project and non-project related low impact development features, such as pervious pavements, rain gardens, eco-roofs, and pocket parks;
- increasing the number of acres for removal of existing impervious surfaces;
- expanding/restoring diminished riparian areas;
- restoring stream channels and floodways where ditches currently exist; and
- ensuring that the large patch of contiguous habitat/wetland complex, for which Design Option C-2 avoids and minimizes impacts (p. 182), is protected from future development.

We would encourage you to explore implementing activities in partnership with Clackamas County to improve livability within the project area.

Groundwater. The information contained in the Geology and Soils Technical Report is helpful, but does not go far enough to characterize the project area groundwater resources, to provide understanding of the ecological functions supported by these groundwater supplies, and to convey the vulnerabilities to potential project impacts. We continue to believe this information is necessary for NEPA disclosure and avoidance/minimization of impacts. For example, the Technical Report indicates that underlying gravels contain groundwater at levels that fluctuate with Clackamas River levels and rainfall. This may indicate the presence of a hyporheic zone associated with the Clackamas River, which could provide an array of ecological

functions that should be disclosed and protected to the extent possible. Because the Clackamas River serves as the area drinking water supply, its connection to groundwater is relevant to drinking water quality and quantity as well as to the support of aquatic organisms, and other ecosystem functions.

The FEIS and Technical Report provide no discussion of groundwater quality, quantity, flow rates and direction, recharge areas, aquatic connectivity and ecological function, or how the project would affect these features. Dewatering is anticipated (Appendix A, p. 20) where trenches or below-grade cut slopes occur in areas of shallow groundwater, but there is no information regarding the estimated volume and/or duration of dewatering or discussion of construction/building design that could reduce or avoid the need for dewatering.

Recommendation: Provide supplemental information as described above to improve characterization of groundwater resources, ecological functions, vulnerabilities, and potential project impacts. Commit to appropriate measures in the Record of Decision (ROD) that would avoid, minimize, or otherwise mitigate direct and indirect project impacts.

Air Quality

We appreciate that the FEIS includes discussion of air toxics and the Portland Air Toxics Assessment. However, the FEIS does not apply what is known about these pollutants to the proposed project. There is no assessment of the existing localized air quality conditions in the project area that includes air toxics, and no quantitative estimate of how conditions would be changed with the Sunrise project. Consequently, the conclusion in the FEIS (Table 12, p. 25) that no air quality impacts would occur because the Preferred Alternative would not cause exceedance of the NAAQS is misleading since impacts may manifest as local effects. There is still need to identify sensitive receptors that may be affected by localized emissions hotspots and/or near roadway effects.

Recommendation: Provide the information as described above, and propose any feasible mitigation where needed to minimize emissions and exposure to elevated levels of MSATs during construction and operation of the proposed project.

We appreciate that construction contractors would be required to comply with Division 208 of OAR 340 and ODOT Section 290.30 (c) for air emissions during construction (p. 171-172). An additional measure to address preventative maintenance of construction equipment could further strengthen these standard specifications.

Recommendation: Consider adding a specification for construction contractors to incorporate preventative maintenance on construction equipment and vehicles.

Environmental Justice, Health and Safety of Children

The FEIS states that there are high concentrations of children, the elderly, and the disabled surrounding the Sunrise project area (p. 114). These are vulnerable populations that should be considered in the analysis and disclosure of and mitigation for project impacts.

Executive Order 13045 on Protection of Children from Environmental Health Risks and Safety Risks directs that FHWA make it a high priority to identify, assess, and address environmental health risks and safety risks from the proposed action that may disproportionately affect children. Similarly, elevated risks to the elderly and disabled should be identified, assessed, and addressed to mitigate impacts as directed by the CEQ NEPA implementing regulations at Section 1502.14(f).

As stated in our comments on the SDEIS, there is an array of potential impacts associated with project construction and operation that could affect populations in close proximity to the proposed project. The FEIS focuses heavily upon displacement in answering the five questions on page 120. In particular, we believe the response to Question c should be addressed more broadly to consider that vulnerable populations, such as low income, elderly, disabled, and children, could potentially suffer project related adverse impacts more severely or to a greater magnitude than less vulnerable populations.

Recommendation: Take a closer look at how project impacts (e.g. air pollution; noise and vibration; construction and operation safety risks from traffic and machinery; and access to schools, work, community activities, and businesses) may affect these vulnerable populations. Include any health related information that would characterize existing vulnerabilities among these populations, such as incidence of asthma or other respiratory ailments. Commit to appropriate mitigation.

We appreciate the efforts to produce this FEIS, and thank you for the helpful features it incorporates. There are many useful figures and tables to illustrate affected resources and impacts, and the use of green font for the new text additions in the FEIS is an especially helpful practice. We hope it will be continued in future NEPA documents.

Thank you for the opportunity to participate in the Sunrise Project. If you have questions or would like to discuss these comments, please contact Elaine Somers of my staff at (206) 553-2966, or by electronic mail at somers.elaine@epa.gov.

Sincerely,

Christine B. Reichgott

Christine B. Reichgott, Manager
Environmental Review and Sediment Management Unit